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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,386	09/05/2006	Takeo Ishii	1011350-000361	9520

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BUCHANAN, INGERSOLL & ROONEY PC  
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EXAMINER
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ROANE, AARON F

ART UNIT	PAPER NUMBER
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3769

NOTIFICATION DATE	DELIVERY MODE
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08/15/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com  
offserv@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/555,386	<b>Applicant(s)</b> ISHII ET AL.	
	<b>Examiner</b> AARON ROANE	<b>Art Unit</b> 3769	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,6-8,11,12,17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,5,9,10 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:11/3/05;9/5/06;11/6/07;2/25/08;6/11/09;2/24/10;1/7/11

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***Election/Restrictions***

Applicant's election with traverse of specie #2, claims 4, 5, 9, 10 and 13-16, in the reply filed on 06/13/2011 is acknowledged.

Applicant's election with traverse of specie #2 in the reply filed on 06/13/2011 is acknowledged. The traversal is on the ground(s) that Applicant believes that all the claims can be examined without serious burden. This is not found persuasive because there is a serious burden in searching all the claims.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-3, 6-8, 11, 12, 17 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 06/13/2011.

The examiner will examine and search claims 4, 5, 9, 10 and 13-16.

***Claim Objections***

Claims 4, 5, 9, 10 and 13-16 are objected to because of the following informalities: claims 4, 5, 9, 10 and 13-16 recite "a plurality of laser irradiation section", however the examiner suggests reciting -- a plurality of laser irradiation sections--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 5, 9, 10, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by

Diamantopoulos et al. (U.S. Patent 4,930,504).

Regarding claim 4, 5, 9, 10, 15 and 16, Diamantopoulos et al. disclose the claimed invention including a plurality of laser irradiation sections (laser diodes); a holding section (distal face of cylinder 62); and a control section (“control unit” 20), see col. 4:21 – col. 5:64 and figures 4-9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Diamantopoulos et al. (U.S. Patent 4,930,504) as applied to claims 4 and 5 above, and further in view of Segal (U.S. Patent 6,033,431).

Regarding claims 13 and 14, Diamantopoulos et al. disclose the claimed invention except reciting the fiber optics. It is extremely well known in the art that LED and fiber optics provide alternate/equivalent laser/light delivery modalities. Additionally, Segal disclose a diode laser instrument and teach “providing fiber optic cable for carrying light generated from the source to the tissue region, thereby obviating the need for a laser light source proximal to the tissue region” and further avoiding the generation of large amounts of heat at the exit region of the device, see col. 2:45-59. Therefore at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the invention of Diamantopoulos et al., as taught by Segal, to provide multiple fiber optic cables for carrying light generated from the source(s) to the tissue region, thereby obviating the need for a laser light source proximal to the tissue region and further avoiding the generation of large amounts of heat at the exit region of the device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON ROANE whose telephone number is (571)272-4771.

The examiner can normally be reached on Monday-Thursday 8:30AM-7PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Chuan Yao can be reached on (571) 272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AARON ROANE/

Primary Examiner, Art Unit 3769